

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

HEIDELBERG USA, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 07-601-GMS
	)	
SCREENTONE SYSTEMS	)	
CORPORATION, ACACIA PATENT	)	
ACQUISITION CORPORATION,	)	
ACACIA RESEARCH CORPORATION,	)	
and PAUL S. SNYPP,	)	
	)	
<u>Defendants.</u>	)	
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KONICA MINOLTA BUSINESS	)	
SOLUTIONS U.S.A., INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 07-602-GMS
	)	
SCREENTONE SYSTEMS	)	
CORPORATION, ACACIA PATENT	)	
ACQUISITION CORPORATION,	)	
ACACIA RESEARCH CORPORATION,	)	
and PAUL S. SNYPP,	)	
	)	
<u>Defendants.</u>	)	

**DEFENDANTS' MOTION TO STAY OR TRANSFER PENDING RESOLUTION  
OF ISSUES BY THE EASTERN DISTRICT OF TEXAS, THE FIRST-FILED  
COURT, OR, IN THE ALTERNATIVE, MOTION TO DISMISS**

On the basis of the first-to-file rule, Defendants Screentone Systems Corporation, Acacia Patent Acquisition Corporation, Acacia Research Corporation, and Paul S. Snyp (collectively, “Defendants”) hereby move to stay the above-captioned actions<sup>1</sup> or to transfer them to the United States District Court for the Eastern District of Texas, Marshall Division, the “first-filed” court. Alternatively, Defendants move to dismiss these proceedings with prejudice.

Under the first-to-file rule, this case should be stayed or transferred, or in the alternative, dismissed. *See Crosley Corp. v. Hazeltine Corp.*, 122 F.2d 925, 929 (3d Cir. 1941). Staying, transferring, or dismissing this case will further the principles of comity and sound judicial administration on which the first-to-file rule is based, by conserving judicial resources and by avoiding duplicative litigation and inconsistent results. *See Alltrade, Inc. v. Uniweld Products, Inc.*, 946 F.2d 622, 625 (9th Cir. 1991). The bases for this motion are more fully set out in the opening brief filed concurrently herewith.

WHEREFORE, Defendants respectfully request that the Court enter an Order to:  
(a) stay these actions until further ruling of the Texas Court; (b) transfer these actions to the Texas Court; or (c) dismiss these actions with prejudice in deference to the Texas Court that first acquired the subject of the parties’ disputes. Defendants also request such other and further relief to which they may be justly entitled.

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<sup>1</sup> The action filed by Heidelberg USA, Inc. (Civil Case No. 07-601-\*\*\*) was initially assigned to the vacant judgeship and was automatically referred to Magistrate Judge Leonard P. Stark on October 10, 2007, for all pretrial proceedings. The action filed by Konica Minolta Business Solutions U.S.A., Inc. (Civil Case No. 07-602-GMS) was assigned to Chief Judge Gregory M. Sleet and referred to Magistrate Judge Stark on the same day. By Order dated October 29, 2007 (Document 14), and upon a finding that the cases are “related cases,” the Heidelberg Action was reassigned to Chief Judge Sleet and then immediately referred to Magistrate Judge Stark. To simplify the Court’s task, both actions are addressed here.

OBERLY, JENNINGS & RHODUNDA, P.A.

Dated: November 21, 2007

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-and-

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Attorneys for Defendants Screentone Systems  
Corporation, Acacia Patent Acquisition Corporation,  
Acacia Research Corporation and Paul S. Snyp

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ACQUISITION CORPORATION,	)	
ACACIA RESEARCH CORPORATION,	)	
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<u>Defendants.</u>	)	

**ORDER ON DEFENDANTS' MOTION TO STAY OR TRANSFER PENDING  
RESOLUTION OF ISSUES BY THE EASTERN DISTRICT OF TEXAS, THE  
FIRST-FILED COURT, OR, IN THE ALTERNATIVE, MOTION TO DISMISS**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, the Court considered  
*Defendants' Motion to Stay or Transfer Pending Resolution of Issues by the Eastern  
District of Texas, the First-Filed Court, or, In the Alternative, Motion to Dismiss.*  
Finding that good cause exists for the granting of the same, it is hereby found and

ORDERED as follows:

- The above-captioned actions are hereby stayed until further notice of this Court.
- The above-captioned actions are hereby transferred to the United States District Court for the Eastern District of Texas, Marshall Division.
- The above-captioned actions are hereby dismissed with prejudice.

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THE HONORABLE GREGORY M. SLEET